

**Division of Mental Health Developmental Disabilities and Substance Abuse Services**

**Commission Meeting Minutes  
Brownstone Hotel, Raleigh**

**Monday, September 17, 2001**

**Commission Members Present**

Emily Moore, Martha Martinat, Judy Lewis, George Jones, Martha Macon, Lois Batton, Joe Coulter, Dorothy Crawford, Pearl L. Finch, Ken Gerrard, William Sims, Paul Gulley, Lou Adkins, Mokie Stancil, Pender McElroy, Donald Stedman, Albert Fisher, Fredrica Turner Stell, Patricia Chamings, Ann Suggs, Raymond Reddrick, Bruce Whitaker, Floyd McCullouch and Mansfield Elmore

**Commission Members Absent**

Patricia Chamings (excused), Jeanne Fenner (excused) and Raymond Reddrick (excused)

**Commission Staff Present (DMH/DD/SAS)**

Dr. Art Robarge, Acting Director for MH/DD/SAS  
Tara Larson, Assistant Director for Quality Assurance and Management  
Michelle Cotton, Liaison, DMH/DD/SAS  
Marilyn Brothers, Hearing Officer, DMH/DD/SAS  
Jeff Horton, Division of Facility Services  
Jill Newkirk, DMH/DD/SAS  
Cindy Kornegay, DMH/DD/SAS  
Susan Collins, DMH/DD/SAS

**OTHERS PRESENT**

Ethel MacPerkins (visitor), John L. Crawford (visitor), Rolo Thornton (Murdoch Center),

Dorothy O'Neal (NCMHCO & Feed His Sheep), Mazie Fleetwood (AP Randolph County), Cynthia Temoshenko (GACPD), Jean Allen (Parent), Val Carmine (DMH/DD/SAS), Bob Hedrick (Providers Council), Janet Schanzenback (N.C. Council of Community Programs), Robyn Dorton (visitor), Debbie Kinert (parent), Bob Kurtz (DMH/DD/SAS), Brenda Rubiano (Mecklenburg County Area MH), Joseph Queen (Mecklenburg Count Area MH), Christine Heinberg (Carolina Legal Assistance), Ann Rodriguez (NC Council of Community Programs), Pat Adams (Edgecombe-Nash AP), Jack Blackley (DMH/DD/SAS), Joe Donovan (N.C. NAMI), Doug Baker (DMH/DD/SAS), Robin Dean (parent), Paula Boland (CITI), Jeff McCloud (Consumer), Mike Vicario (NCHA), Hugh Tilson (NCHA), John Owens (Consumer), Molly Long (NC MHCO), William Carothers (NC MHCO), Mary Greene (Parent Advocate), Pat Porter (DMH/DD/SAS), Ken Gervan, Don Willis (DMH/DD/SAS), Lisa Haire (DMH/DD/SAS), Diane Pomper (AG's Office), Peggy Balak (DMH/DD/SAS), Phillip Veenhuis (DMH/DD/SAS), Mike Byrne (DMH/DD/SAS)

**Monday, September 17, 2001**

**Call to Order**

Emily H. Moore, Chairman of the Commission for Mental Health, Developmental Disabilities and Substance Abuse Services, called the meeting to order and delivered the invocation. Chairman Moore read the “Reading of the Ethics Statement” and “Conflict of Interest”.

**Approval to Minutes**

A motion was made by Dorothy Crawford and seconded by Bruce Whitaker to approve the minutes from the May 14, 2001 Commission Meeting.

**Public Hearing for Seclusion and Restraint Rules: (written comments attached)**

The opportunity was given to all present for additional public comments. Those presenting to the Commission were:

- Mazie Fleetwood, Randolph County, NC Council
- Debbie Kinert, Parent/Consumer
- Robyn Dorton, Consumer
- Christine Heinberg, Carolina Legal Assistance
- Jean Allen, Parent
- Cynthia Temoshenko, GACPD
- Robin Dean, Parent
- Paula Boland, CITI
- Jeff McLoud, Consumer
- Hugh Tilson, NCHA
- John Owen, Consumer
- Mark Long, NC MHCO
- William Crothers, NC MHCO
- Mary Green, Parent Advocate
- Melody Wood, Consumer
- Dorothy O’Neal, NC MHCO

**Advisory Committee Report**

Dr. Paul Gulley, Chairman of the Advisory Committee, reported on the Advisory Committee meeting on July 12, 2001. The minutes of that meeting were distributed.

- CRIPA, which stands for Civil Rights for Institutionalize Persons Act will be coming to NC to review the State Psychiatric Hospitals.
- The final draft of the State Plan is due September 26, 2001. The Advisory Committee will be reviewing the Draft State Plan on October 11<sup>th</sup>, and developing comments. All Commission members are invited to attend the meeting.
- The Psychology Practice Act was discussed at the last Advisory meeting. The Advisory Committee determined at this time they would accept this information but offer no recommendations to the full Commission regarding this subject.
- The Advisory Committee recommended the Unfunded Mandates come before the full Commission.

### **Rules Committee Report**

Pender McElroy, Chairman of the Rules Committee, reported on the Rules Committee's July 10 and August 14, 2001 meeting. At the July 10<sup>th</sup> meeting, the temporary rule packet that was filed was reviewed. Comments were received and a draft fiscal note was discussed. One of the comments received stated, "the fiscal note did not capture all the cost". At the August 14<sup>th</sup>, meeting each proposed rule was reviewed. On August 31<sup>st</sup>, the full packet of every rule and recommendation was mailed to commission members.

Tara Larson presented the recommended changes by the Rules Committee.

No additional rule changes were recommended to the following rules:

- |             |              |
|-------------|--------------|
| 1. 14J.0201 | 7. 14V.0208  |
| 2. 14J.0207 | 8. 14V.0304  |
| 3. 14P.0102 | 9. 14V.0801  |
| 4. 14Q.0303 | 10. 14V.0802 |
| 5. 14R.0101 | 11. 14V.0803 |
| 6. 14R.0105 | 12. 14V.6002 |

The Rules Committee recommended the following rule changes:

1. 14G.0101
2. 14G.0102
3. 14J.0203
4. 14J.0104
5. 14J.0205
6. 14J.0206
7. 14J.0210
8. 14J.0211
9. 14J.0212
10. 14P.0101
11. 14Q.0101
12. 14R.0104
13. 14R.0108
14. 14R.0109
15. 14V.0104
16. 14V.0202
17. 14V.0203
18. 14V.0204

Rules Committee Chairman Pender McElroy commented on Deemed Status. Mr. Elroy stated, there are a lot of issues concerning Deemed Status, whether to adopt or not, and a number of Advocacy proposals are before the members, and a compromise position will allow Deemed Status to remain inactive with certain exceptions in very important areas. The Advocacy proposals are reasonable/workable and are necessary.

Pender McElroy made the following motion for consideration by the Commission regarding the Deemed Status rule:

1. Require compliance with state training requirements and training curriculum review and approval by the Division of MH/DD/SAS.
2. Require staff to conduct debriefing and planning after the use of a restrictive intervention with the client and legally responsible person, if applicable
3. Documentation for the use of seclusion and restraint.
4. Compliance with state definition of physical restraint.
5. Training for all persons who work directly with clients

Deemed Status could be considered with the additional above requirements, and training curriculum prior approval.

Martha Martinat made a motion to vote on the recommended rules the next business day and Dorothy Crawford seconded it. The Commission members will vote the next business day on the motion made to accept deemed status and to add requirement to training curriculum, debriefing plan and emergency documentation, state definition of facility restraints, and training for persons with disabilities prior to the implementation of providing that service.

Ms. Larson presented information regarding fiscal impact of the proposed changes. The current fiscal role will need to be redone since the role does not reflect the additional requirement.

**Council on Accreditation (COA) presented by Mike Byrne, DMH/DD/SAS**

In April 1998 the Division and the Area Programs embarked on a new and demanding program. The goal was to have all Area Programs accredited by the Council on Accreditation (COA), a nationally recognized human service and behavioral healthcare accrediting organization, by July 2001.

As of July 31, 2001 all Area Programs were either accredited by COA or in the final stages of the COA review process. COA accreditation is effective for three or four years, depending on the length cycle selected by the organization undergoing accreditation review. The Division elected a three-year cycle for Area Programs' accreditation.

Mr. Byrne recommended that the Commission approve the extension of the COA accreditation cycle for Area Programs from three to four years, as permitted under the provisions of 10 NCAC 14V.0603(f).

Commission member Floyd McCollough made a motion that the Division take the necessary steps with COA to extend COA accreditation from three years to four years for

all area programs that have been, or will be approved for accreditation. Mrs. Crawford seconded this motion. The motion passed unanimously.

**Central Prison Report**

Commission members Dr. Ann Suggs and Dr. William Sims reported on the May 15, 2001 visit to Central Prison. Fifteen Commission members toured Central Prison, the State's Maximum Security Prison in Raleigh. The purpose was to see where and how persons with mental illness were being cared for in this facility. It was reported all prisoners are screened upon admission for mental illness. Those deemed in need of treatment are housed separately from the general prison population. The prisoners do receive standard medical care. After these men are stabilized, they are moved back into the general prison population.

Tara Larson stated that Barbara Gardner and Margaret Stephenson audit MH/DD/SA Services at Central Prison.

**Division Director's Report (Dr. Art Robarge)**

The reorganization/cuts that were required by the Department have taken place. Approximately twelve positions were cut, and there were another six positions from our division that the Department required in order to keep some of the initiative going at the Department level. Dr. Robarge complimented staff in making that a successful process. Jobs were offered for all positions. The Division recognizes the budget issues, and Dr. Robarge is meeting with appropriate staff to find out what the Division can do next year to produce tangible benefits for clients. The Division Director application process is going forward. Also, the Division is moving forward and a lot of good things are happening.

**Division of Mental Health Developmental Disabilities and Substance Abuse Services**

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**Tuesday, September 18, 2001**

**Commission Members Present**

Emily Moore, Martha Martinat, Judy Lewis, George Jones, Martha Macon, Lois Batton, Joe Coulter, Dorothy Crawford, Pearl L. Finch, William Sims, Paul Gulley, Lou Adkins, Pender McElroy, Donald Stedman, Albert Fisher, Fredrica Turner Stell, Patricia Chamings, Ann Suggs, Raymond Reddrick, Bruce Whitaker, Floyd McCullouch and Mansfield Elmore

**Commission Members Absent**

Patricia Chamings (excused), Raymond Reddrick (excused), Jeanne Fenner (excused), Ken Gerrard (excused), Mokie Stancil (excused) and Paul Gulley (excused)

**Commission Staff Present (DMH/DD/SAS)**

Dr. Art Robarge, Acting Director for MH/DD/SAS  
Tara Larson, Assistant Director for Quality Assurance and Management  
Marilyn Brothers, Hearing Officer, DMH/DD/SAS  
Jeff Horton, Division of Facility Services  
Jill Newkirk, DMH/DD/SAS

**Others Present - September 18, 2001**

Ethel Mae Perkins, Debbie Kinert, Rob Thornton, Jim Jarrard, Doug Baker, Jean Allen, Cynthia Temoshenko, Brenda Rubiano, Joseph Owen, Joe Donovan, Mary Green, Bob Kurtz, Dan Searcy, Mazie Fleetwood, Bob Hedrick, Val Carmine, Ann Rodriguez, Stan Slawinski, James Blackley, Robin Dean, Steven Airhart, Christine Heinberg, Phillip Veenhuis, Carol Duncan Clayton, Cindy Kornegay, John Crawford and Jean Jennings

Chairman Moore reconvened the meeting and thanked: Tara Larson and Dr. Art Robarge for their leadership; Ms. Jill Newkirk who is always so helpful keeping the members informed; Ms. Marilyn Brothers for her longtime leadership and dedication; Ms. Cindy Kornegay who is doing an outstanding job with the rules; and Ms. Susan Collins for her support and expertise to the Commission. Chairman Moore noted the Division has come a long way, one of peace and harmony.

**Legislative Update (Tara Larson)**

In the absent of Michelle Cotton, Tara Larson, Asst. Division Director, updated the Commission members on the latest Legislative Update. The state budget has passed. The continuing resolution runs out September 28<sup>th</sup>. The last continuing resolution moved part of the budget basically to identify Medicaid issues. The Reform Bill passed the House

and Senate and went back to the House. This bill failed 67 to 43 and has been reassigned. The bill is still in review. Secretary Hooker Buell is committed to moving the system forward.

#### **Unfunded Mandate Report (Tara Larson)**

Mrs. Larson reported on the Unfunded Mandates by Lee-Harnett and Cumberland Area Programs. Handout attached.

#### **State Plan (Tara Larson)**

Mrs. Larson updated the Commission members on the Secretary's State Plan. Secretary Hooker Buell is dedicated to moving forward with the State Plan. Many Commission members sent in comments regarding the State Plan. The Secretary's Advisory Committee will review a draft of the State Plan, Local Business Plan, Target Population, Benefits packages, Core Services, Quality Management and Access to the system on September 26, 2001. State Plan public hearings are scheduled for October 3<sup>rd</sup> in Raleigh; October 4<sup>th</sup> in Kinston and October 9<sup>th</sup> in Asheville. There is a follow-up State Advisory Committee meeting on October 23<sup>rd</sup>. The final State Plan will be delivered to Secretary Hooker Buell in November and to the Legislative Oversight Committee by December 1<sup>st</sup>.

#### **Commission Action of Restraints/Seclusion**

Pender McElroy made a motion to adopt the rule changes that came from the Rules Committee with the exceptions recommended by GAPCPD those exceptions is as follows:

1. Require compliance with state training requirements and training curriculum review and approval by the Division of MH/DD/SAS.
2. Require staff to conduct debriefing and planning after the use of a restrictive intervention with the client and legally responsible person if applicable
3. Documentation for the use of seclusion and restraint.
4. Compliance with state definition of physical restraint.
5. Training for all persons who work directly with clients

Albert Fisher seconded the motion.

Commission member Floyd McCullouch made an amendment to the motion that the debriefing can only be on emergency. After much discussion, Pender restated his original motion. The motion passed twelve to six.

Commission member Dorothy Crawford asked what the Federal requirements are for training and documentation. Jeff Horton with Division of Facility Services reviewed the Federal requirements for state hospitals.

#### **New Business**

The next Commission meeting will be held on November 13-14, 2001 at the Four Points Hotel in Raleigh. The next Rules Committee will be held in October; the Advisory Committee will meet October 11<sup>th</sup> at the Four Points Hotel. The draft State Plan will be discussed at this meeting.

Chairman Moore adjourned the meeting.